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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Amendment of Parts 73 and 74 of
the Commission's Rules to permit
unattended operation of broadcast
stations and to update broadcast
station transmitter control and
monitoring requirements.

MM Docket No. 94-130

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COMMENTS OF THE MOODY BIBLE INSTITUTE OF CHICAGO

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COMMENTS OF THE MOODY BIBLE INSTITUTE OF CHICAGO

The Moody Bible Institute of Chicago (hereafter "Moody"), by its undersigned counsel, hereby respectfully submits its comments in response to the NOTICE OF PROPOSED RULE MAKING (hereafter the "Notice") in the above-captioned proceeding.¹

I. SUMMARY

1. Moody is a private, non-profit, educational institution that is the Commission licensee of a group of noncommercial broadcast stations.² As the operator a number of noncommercial stations, Moody has sought to balance its desire to provide quality, educational programming while limiting the operational

¹ FCC 94-289, released December 7, 1994.

² Moody is the licensee of the following noncommercial stations: WMBI(AM & FM), Chicago, Illinois; WCRF(FM), Cleveland, Ohio; WDLM(AM & FM), East Moline, Illinois; WMBW(FM), Chattanooga, Tennessee; (KMBI AM & FM), Spokane, Washington; WKES(FM), St. Petersburg, Florida; WRMB(FM), Boynton Beach, Florida; WMBV(FM), Dixon's Mills, Alabama; WAFS(AM), Atlanta, Georgia; WGNB(FM), Zeeland, Michigan and WJSO(FM), Pikeville, Kentucky. Moody is the permittee of the following noncommercial stations: WGNR(FM), Monee, Illinois; WIWC(FM), Kokomo, Indiana; and WVMS(FM), Sandusky, Ohio.

expenses of its stations in a manner consistent with Moody's primary role as an nonprofit, educational institution. Moody believes that, as a general matter, the Commission's proposed modifications in its broadcast rules to permit the unattended operation of broadcast stations will help nonprofit, educational institutions like Moody to conserve their limited, financial resources by eliminating certain unnecessary operational expenses. Moody believes that this conservation of educational resources, without any corresponding dilution in the service provided by noncommercial broadcast stations, is in the public interest. Moody further believes that the benefits to be realized by permitting the unattended operation of broadcast stations should be extended to FM translator stations operated by the licensee of the primary broadcast station rebroadcast on the translator. Moody submits that the quid pro quo for this loosening of the duty operator requirements should be increased penalties and forfeitures for stations that fail to comply with the revised, unattended operation requirements of the Commission's broadcast rules in order to guard against the irresponsible implementation of the requirements of these rules by broadcasters.

II. BACKGROUND.

2. The primary purpose of the subject rulemaking proceeding is to determine whether, and under what circumstances, the Commission should modify the present requirement that broadcast stations must have a licensed radio operator on duty and in charge of the transmitter at all times during which the station

is in operation. The Commission believes that the recently passed Telecommunications Authorization Act of 19923 (hereafter the "Law") amended Section 318 of the Communications Act of 1934 (hereafter the "Act") to allow the Commission to waive or modify the operator requirement for, inter alia, stations engaged in broadcasting. Therefore, the Commission proposes to waive its requirement that broadcast station duty operators possess a license or restricted permit. Secondly, the Commission proposes to modify its various transmitter control requirements to make them more relevant to the current state of the art in technology for unattended operation. The Commission's Notice posed a number of questions concerning unattended operation of broadcast stations and the possible consequences thereof. Moody's comments will address some of these questions and concerns.

III. MOODY'S COMMENTS.

3. ELIMINATION OF DUTY OPERATOR REQUIREMENT. In paragraph 8 of the Notice the Commission seeks comment of whether concluding that duty operators are not generally necessary might encourage negligence or irresponsibility on the part of certain broadcast licensees, with the result that interference levels in the various broadcast services might be exacerbated. Moody shares this concern. The Commission, and the broadcast industry, is faced with the competing interests of allowing broadcasters to benefit from the use of new technology, and decrease operating

3 Pub. L. No. 102-538, 106 Stat. 3533

costs, on the one hand, while continuing to ensure that broadcast licensees operate their stations in a manner that will eliminate undue interference to other stations. Moody is concerned that a certain segment of the broadcast industry may see the elimination of the duty operator requirement as a way to leave their broadcast stations completely unattended, and uncontrolled, in order to cut operating costs without regard to the potential for additional interference that may result in the event the station were to operate outside of acceptable tolerance levels for extended periods of time without the licensee being aware of the problem. Moody believes that one possible solution to this problem would be to increase the fines and forfeitures allocable against stations in the event they operate without duty operators and cause undue interference to other stations as a result of the station's unattended operation. Perhaps the current fine and forfeiture levels should be twice the normally applicable level in the case of unattended stations.

4. METHODS OF TRANSMITTER CONTROL. The Commission proposes to allow broadcast licensees the maximum operational flexibility in employing any number of methods for transmitter control in lieu of a duty operator. These would include direct manual or remote control by station employees, specially designed, highly stable state-of-the-art transmitters, and accurate automated measurement and control (ATS-like) equipment. Moody supports the Commission giving broadcasters the ability to use the full panoply of current technology and promulgating unattended

operation rules that will also allow broadcasters to take advantage of new developments in the technology as it occurs.

5. ATS-EQUIPPED STATIONS. In this vein, Moody fully supports a Commission policy that permits the unattended operation of broadcast stations if they are ATS-equipped. This should be in addition to the ability of broadcasters to utilize other available methods of transmitter control, as discussed in paragraph 4 above. Moody has one reservation, however, concerning the use of ATS equipment. Moody believes the users of ATS equipment should be required to be notified about an out-of-tolerance condition whether or not the transmitter can be taken off the air by the ATS equipment. Professional broadcast operation requires that broadcasters be made aware immediately of technical problems so that the problems can be remedied and the station placed back into operation. Without such notification, it is possible for a broadcast station to be taken off the air by ATS equipment and to remain off the air for an extended period of time, with a corresponding loss of broadcast service to the public. Moody believes that the public interest standard in the Act requires broadcasters to return stations, and the service they provide, to the air as promptly as possible following transmitter problems.

6. DIRECTIONAL AM STATIONS. With respect to directional AM stations, Moody believes that these facilities should not be excluded from the unattended operation provision of the proposed rules. AM stations with type-approved AM antenna sampling

systems are fully capable of operating without duty operators in conformity with their licenses. Moody does not believe that any substantive reason exists as a result of the improvement in AM transmission monitoring techniques for the longstanding "exception" for directional AM stations to be perpetuated in the proposed rules.

7. SPECIFIC DUTIES FOR OPERATORS. In paragraph 13 to the Notice, the Commission questions the need in the case of licensees operating their stations in the attended mode to specify the operators duties in detail, since such duties may vary widely from station to station. Moody supports the non-designation of duties for a control person in an attended operation mode. In Moody's case, as an educational institution, this would allow it to utilize qualified volunteer workers as the designated operator who do not have the required FCC licenses to do so under the current rules. Such a modification will allow non-profit, educational institutions like Moody to realize operational expense savings without any diminution of service to the public. Otherwise, Moody and similar licensees will have to provide for paid, and overly-qualified, licensed duty operators and incur what are essentially unnecessary related operational expenses to employ them.

8. FM TRANSLATORS. Paragraph 14 in the Notice indicates that the Commission proposes to offer similar flexibility "under Part 74 of our rules" to low power TV stations. Moody would note that FM translator stations are also authorized under Part 74 of

the Commission's rules. Moody is the licensee of a group of FM translator stations throughout the United States. FM translators are low-power facilities that rebroadcast a primary, full-power station. Under existing technology, an FM translator will cease operation automatically in the event it fails to receive the signal of the primary station. Moody believes that a loosening of the operator standards for FM translators is warranted under the same rationale as the broadcast industry in general and encourages the Commission to offer corresponding relief for the licensees of FM translators under Part 74 of the Commission's rules.

9. Section 74.1234 of the Commission's rules presently allows an FM translator to be operated without a licensed operator if certain conditions are met. These conditions are:

(1) the transmitter site cannot be reached promptly at all hours and in all seasons and a means is provided so that the transmitting apparatus can be turned on and off at will from a point which is readily accessible at all hours and in all seasons;

(2) the transmitter is equipped with suitable automatic circuits which will place it in a nonradiation condition in the absence of a signal on the input channel;

(3) the on-and-off control and the transmitting apparatus shall be adequately protected against tampering by unauthorized persons;

(4) the Commission is supplied with the name, address and telephone number of a person who may be contacted to secure suspension of operation of the translator; and

(5) where the antenna and supporting structure are required to be painted and lighted, the licensee shall have suitable arrangements for the daily inspection and logging of the obstruction lighting as required by Part 17 of the Commission's rules.

The Notice proposes to allow broadcast stations to operate unattended where the antenna monitoring duty can be automated, the Commission is aware of the name and telephone number of a "contact person", and the transmitter for the station can be turned off and on by either automated equipment or a duty operator from a remote location. Thus, the only additional requirement contained in Part 74 for the unattended operation of FM translators is the requirement that the transmitter site be located in a remote location. It is nonsensical to continue to require attended operation of an FM translator unless it is in a remote, unaccessible area when the Commission is aware that automated equipment is sufficiently reliable to allow full power stations to operate on an unattended basis regardless of where their transmitter are located. Moody stresses that it would be arbitrary and capricious for the Commission to modify its rules in accordance with the Notice for full power broadcast stations and fail to do so for FM translators.

10. AUTOMATED ANTENNA LIGHTING VERIFICATION. The Commission's Notice requests comments on the responsibilities imposed on broadcast licensees regarding the verification of antenna tower lighting. Moody agrees with the Commission's supposition that this responsibility is easily automated and presents no bar to the overall lifting of the duty operator requirement. In fact, Moody's experience indicates that a tower light failure is more quickly discovered through the use of an automated system than by relying on duty operators to manually

monitor the lighting situation from time to time. For this reason, visual inspection of tower lighting by a duty operator is an unnecessary and inefficient procedure that should be eliminated.

11. LICENSES AND PERMITS FOR DUTY OPERATORS. Under those circumstances where a station may decide to continue to employ a duty operator, Moody does not believe it is necessary for the operator to possess a license or restricted permit ("RP"). As noted previously, most normal functions of duty operators do not require the possession of an RP. Thus, for the same reasons inherent in the conclusion that duty operators are no longer necessary to the operation of a broadcast station, there is no need for a duty operator to be required to undertake the burdens and costs of RP licensing. This is especially true in the case of a non-profit, educational institution like Moody, who hopes to be able to utilize unlicensed, volunteer duty operators in place of paid, licensed operators.

12. FCC NOTIFICATION OF CONTACT PERSON. Moody supports the concept of each broadcast station supplying the Commission with the name and telephone number of a contact person for each unattended broadcast station. Moody believes that each broadcast licensee should be required to initially supply this information to the Commission at the point it begins unattended operation. Moody believes that the initial information should be required to be up-dated annually or in the event the information should change. Moody believes that the up-dated information should be

required to be supplied to the Commission in writing within seven (7) days of the effective date of the change in the contact person. This procedures will require broadcast licenses to make a notification to the Commission when there is a change in the information on file and annually. Moody believes this procedure will not be burdensome on either the Commission or its broadcast licensees.

13. In addition, Section 74.1265(b) the Commission's rules regarding FM translators requires that the name, address and telephone number of the licensee or its local operator be displayed at the translator's transmitter site. This provision was placed in the Commission's rules to ensure that the FCC's field inspectors would be able to easily locate the local operator of the translator. In the event the Commission decides to implement its proposed "contact person" database, this requirement in the FM translator rules is duplicative and unnecessary. Therefore, Moody proposes that this provision of the FM translator rules be stricken and that FM translators be required to supply "contact person" information to the Commission in the same manner as other broadcast licensees.

14. MAXIMUM ALLOWABLE TIME PERIOD FOR NON-COMPLIANCE CORRECTION. The Notice solicits comment on the maximum time period that should be allowed for non-compliance correction. Moody believes that there should be a different maximum time period requirement for attended operation and unattended operation. In the case of attended operation, the duty operator

typically has many other responsibilities during the period he or she is in charge of station operation. It is not always possible for the duty operator to immediately drop everything else he or she is doing to make a non-compliance correction within three minutes. Accordingly, Moody believes that a thirty (30) minute time frame for attended, non-compliance is reasonable. However, in the case of unattended operation, the three minute standard seems reasonable and appropriate.

15. MONITORING AND ADJUSTMENT. The Notice discusses at paragraph 34 a proposal that each licensee be able during unattended operation to monitor and adjust its transmitter power and modulation level. Moreover, the Commission proposes that during unattended operation the monitoring and control of these parameters must be performed by equipment that would take the station off the air or else contact some person designated by the licensee. This is not a present requirement for FM translator stations due to the fact that many FM translators are located in remote and largely inaccessible locations near the communities they serve. It would be extremely expensive to outfit FM translators with the necessary equipment to enable the licensee to monitor and adjust the transmitter power and modulation level. Moreover, such an expenditure would be unwarranted based on the very limited service area of an FM translator. Many FM translator licensees, including Moody, would have to consider the discontinuance of certain translators rather than purchase the necessary equipment to comply with this proposal. Moody does not

believe that making these monitoring and adjustment requirements applicable to FM translators is either in the public interest, or something that can be accomplished in the subject rule making proceeding. Moody believes that should the Commission implement a change in the rules consistent with paragraph 34 of the Notice, it should make it clear that such changes do not apply to the operation of FM translator stations under Part 74 of the Commission's rules.

16. ADEQUATE MONITORING PROGRAM. The remainder of the Notice deals with question of what constitutes an adequate monitoring program. The Notice proposes to leave the actual monitoring procedures, schedules, and technical analyses largely to the discretion of the broadcast licensee. Moody believes that this approach is overly vague and fails to give broadcast licensees adequate performance "benchmarks" as to what exactly constitutes "adequate monitoring". For example, Section 17.47 of the Commission's rules requires the status of tower lighting to be checked at least once daily. Moody would suggest an "at least once daily" minimum benchmark for all monitoring procedures to ensure that transmission system parameters are met by broadcast licensees. This standard gives all licensees a minimum acceptable level of monitoring that they can comply with in the operation of their stations.

17. Moody also believes that the Commission should implement an exact equipment calibration schedule so that the tests that are run are known to be accurate and acceptable to the

Commission. Moody would suggest anywhere between six (6) months to one (1) year between calibration checks as an acceptable time frame.

Respectfully submitted,

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